

<b>Compliance Board Opinion 96-02</b>
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March 4, 1996

*George A. Schmiedigen, Esquire*

The Open Meetings Compliance Board has considered your complaint dated January 24, 1996, in which you allege that the minutes of the Town of Brentwood's Charter Revision Committee do not comply with the Act. The Compliance Board's opinion will be brief, in light of the Town's response conceding that the minutes have not complied with the Act.

Under §10-509(c)(1) of the State Government Article, Maryland Code, the minutes of a public body's open meetings "shall reflect":

- (i) each item that the public body considered;
- (ii) the action that the public body took on each item; and
- (iii) each vote that was recorded.

It appears that Brentwood's Charter Revision Committee, as it proceeded to debate particular aspects of a new municipal charter, sought to operate by consensus. However, consensus — that is, general assent to a proposal — was not always achieved. As you pointed out in your complaint letter, you yourself dissented from aspects of the Committee's recommendations reached at its meeting of December 20, 1995.

The Open Meetings Act is not an enemy of consensus. If a public body truly does decide a matter by consensus, the minutes can simply reflect the unanimous consent for the action. If, however, there is objection or dissent, the minutes must reflect that fact. The purpose of the "recorded vote" requirement in §10-509(c)(1)(iii) is to ensure that members of the public who review the minutes understand who supported a particular action and who did not. In that way, public accountability is fostered.

Because you dissented from aspects of the Committee's decision-making on December 20, and yet the minutes of the meeting did not reflect your dissent, the Open Meetings Act was violated. In his response on behalf of the

Town of Brentwood and its Charter Revision Committee, Andrew W. Nussbaum, Esquire, acknowledges “that the minutes must properly reflect any dissenting or abstaining votes on recommendations [that the Committee] makes.” Mr. Nussbaum goes on to state that “the Committee will, in the future, properly record in its Minutes any dissenting or abstaining votes.”

To summarize, the Open Meetings Compliance Board finds that the Charter Revision Committee of the Town of Brentwood violated the Open Meetings Act in its failure to record dissenting votes cast at its December 20 meeting. The town has acknowledged the violation and has taken appropriate steps to prevent its recurrence.

OPEN MEETINGS COMPLIANCE BOARD

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